

## 2006 REVIEW

### REPORT ON CROATIA'S PROGRESS IN MEETING INTERNATIONAL COMMITMENTS SINCE 2001

9 June 2006

#### TABLE OF CONTENTS

<b>OVERVIEW.....</b>	<b>2</b>
INTRODUCTION.....	2
PERSPECTIVES.....	4
<b>STATUS OF MANDATE RELATED ISSUES .....</b>	<b>7</b>
RIGHTS OF NATIONAL MINORITIES.....	7
Minority Employment in the State Administration, Judiciary and Local Administrations.....	8
Political Representation of Minorities at the Local Level.....	9
Minority Education.....	10
ELECTORAL REFORM.....	12
RETURN AND INTEGRATION.....	13
Sarajevo Process.....	14
Access to Housing.....	15
Infrastructure.....	17
Acquired Rights - Convalidation and Unconditional Return to Croatia.....	18
Judicial Issues Remaining After the Sarajevo Process.....	19
RULE OF LAW.....	21
Human Rights Protection and Access to Justice.....	22
Prosecution of War Crimes and Transfer of ICTY Cases.....	24
Missing Persons.....	26
POLICE REFORM.....	27
CIVIL SOCIETY DEVELOPMENT.....	29
Legal and Institutional Framework for Civil Society.....	29
Local Civil Society Development and Support.....	30
FREEDOM OF THE MEDIA.....	31
<b>CONCLUSION.....</b>	<b>34</b>
<b>ANNEX.....</b>	<b>35</b>

## **OVERVIEW**

### **INTRODUCTION**

Approved by the Permanent Council on 18 April 1996, the OSCE Mission to Croatia has been in operation for ten years. In May 2001, the Mission issued a 'Review' (SEC.FR/362/01, 25 May 2001) which assessed mandate-related progress in the first five years of the Mission's deployment. The present '2006 Review' examines the five year period from May 2001 until the present, taking into consideration the initial starting point of the Mission. It seeks to:

- Measure progress related to Croatia's fulfillment of international commitments and obligations as foreseen by the Mission's mandate;
- Identify problems and issues which require further action by the Croatian authorities;
- Formulate objectives, specify tasks and possible timelines for the completion of these mandate goals ;
- Provide elements for an assessment of the Mission's resources, structure and programmes.

#### **The Mandate**

Two PC Decisions have defined the mandate of the Mission. The first PC Decision No. 112 (18 April 1996) authorized the Mission to provide assistance and expertise in the fields of human rights, the rights of national minorities, the development of democratic institutions and the rule of law. The second PC Decision No. 176 (26 June 1997) extended the mandate to include refugee related issues [see Annex].

#### **The Evolution of the Mission's Structure**

Although the Mission's mandate has not been modified since 1997, the Mission's size and organizational structure have changed as conditions and relations with the Government have evolved.

When the Mission opened in mid-1996, it consisted of seven international members and a small number of national staff, with offices in Zagreb, Vukovar and Knin. Within a year, the Mission's mandate and resources were expanded enabling a field presence in former war-affected areas. A peak was reached in 1999 with 286 international and about 500 national Mission members. To fulfill its broad monitoring and reporting functions the Mission was hierarchically structured with the Headquarters in Zagreb, three - at one time four - Coordinating Centres and 15 Field Offices and Sub-offices.

Between 1998 and 2000, the Mission provided the OSCE's first police monitoring and training presence - the Police Monitoring Group (PMG) - in the former UNTAES administered region of Eastern Slavonia. In 2001, conditions in Eastern Slavonia were assessed as stable and the police monitoring operation was concluded, resulting in a massive reduction of some 260 international and national Mission personnel.

Working on the basis of the 2001 Review, the Mission reached an agreement with the Government in January 2002 to jointly focus on achieving progress in the main mandate-related areas. As the Mission's tasks evolved in line with areas where the Government had made some progress, it was possible to carry out a gradual but continuous reduction of staff and restructure the Mission by eliminating Coordinating Centres and reducing the number of Field Offices.

Since 2001, the overall Mission budget has decreased per annum by an average of 8.5 per cent. During the same period, the overall number of staff has decreased by an average of 12 per cent per annum, while international posts decreased per annum by an average of 20 per cent. Currently the Mission has 39 international and 147 national positions.

*Budget and staff: evolution between 1997, 2001 and 2006*

	1997	2001	2006
<b>Budget</b>	€5,780,000	€13,400,000	€8,503,800
<b>Personnel</b>			
- international	90	120	39
- local	67	238	147

**Current Co-operation between the Mission and the Government**

The co-operative relationship between the Mission and the current Government was underscored by the visit of Prime Minister Sanader to the Mission headquarters in June 2005, followed in early October by President Stipe Mesic's participation in the 30<sup>th</sup> anniversary of the signing of the Helsinki Final Act. In the period of optimism following the EU's decision to start accession talks in October 2005, the Croatian authorities demonstrated an increased willingness to consolidate their partnership with the Mission and intensified their efforts to meet Croatia's obligations.

In January 2006, Prime Minister Sanader and the HoM agreed to set up a consultation mechanism, referred to as the 'Platform', consisting of monthly plenary meetings at ministerial level, aimed at systematically reviewing activities related to the mandate. The first component was set up a year ago between the Minister of Maritime Affairs, Transport, Tourism and Development and International Community (IC) Principals (Delegation of the European Commission, UNHCR, US Embassy, OSCE Mission to Croatia), in order to hold substantive monthly meetings on refugee related issues. The second component was formed in March this year under the auspices of the Minister of Foreign Affairs in order to review a wider range of mandate related chapters. The third component was created in April to assess progress in relation to the domestic prosecution of war crimes and includes the Minister of Justice, the Chief State Attorney, and the Supreme Court together with representatives of the Mission, the ICTY and the Delegation of the European Commission.

The Government and the Mission have reached a general consensus on numerous objectives which comprise the joint task ahead, although these will continue to be developed throughout 2006. These are detailed in the sections which follow [see Status of Mandate Related Issues]. Considerable effort will be required to address the numerous details involved in preparing new legislation, amending existing laws, adopting and

disseminating statutory regulations, making financial and strategic decisions and preparing the State administration to carry out the changes envisioned in the process.

### **Regional Co-operation - A New Dimension to Mission Activities**

Croatia's main objective is to accelerate progress toward EU accession and it considers regional co-operation complementary to this process. The improvement of bilateral relations with the former State Union of Serbia and Montenegro (Serbia and Montenegro hereinafter) was underscored by the historic visit of Prime Minister Sanader to Belgrade in November 2004, followed by a reciprocal visit to Zagreb by Serbian Prime Minister Vojislav Kostunica in November 2005.

The Sarajevo Declaration, signed on 31 January 2005 by Bosnia and Herzegovina, Croatia and Serbia and Montenegro, represents an essential step forward in the regional process of refugee return. It is the first tri-lateral attempt to resolve the political aspects of regional refugee return in a finite timeframe. Croatia prepared a comprehensive Road Map with an attached budgetary and timeframe commitment and actively participated in tri-lateral discussions on sensitive and often neglected refugee related issues. A comprehensive solution for former occupancy tenancy rights (OTR) holders who do not wish to return to Croatia; and the convalidation of acquired rights must still be addressed if the process is to be completed by the agreed target date of December 2006.

Co-operation in the prosecution of war crimes between Croatia, Bosnia and Herzegovina and Serbia and Montenegro, including cases transferred from the ICTY, has been facilitated by four OSCE-sponsored forums held between November 2004 and April 2006. Improved co-operation has been particularly notable among prosecutors, aided by a series of protocols concluded in 2005 at the initiation of the Croatian Chief State Attorney. Legal impediments in each country that currently hinder more extensive co-operation remain largely unaddressed and require further high level political engagement.

## **PERSPECTIVES**

Over the past five years, the Mission has observed a continuous improvement in the democratic atmosphere in Croatia. This can be seen with respect to media freedom and public debate on mandate related issues; the responsiveness of many national and local government bodies and institutions to reforms based on international commitments and agreements, including the fight against corruption; the development of transparency in government; an increased acceptance of national minority groups; growing acceptance of the role of civil society and improved relations between the police and the general public. These positive developments, often difficult to quantify, have come about in no small part due to the work of the Mission, both on the national and local level. The establishment of the 'Platform' is recognition by the Government both of the positive role played by the Mission in the past and acceptance of the Mission's current role as a partner working towards common goals.

### **The 'Platform' - An Ongoing Consultation Mechanism**

To date, the 'Platform' has proved to be an effective tool for the joint identification and prioritization of objectives, discussing and listing the tasks to be accomplished by the

Croatian authorities, envisaging forms of assistance to be provided by the Mission and checking progress on a monthly basis. This negotiation process is still ongoing.

As the first component of the 'Platform' related to refugee issues has been operative for a longer period than the other two, it is possible to provide some perspective on initial results. Following consultations with the Minister for Maritime Affairs, Transport, Tourism and Development, several delicate topics previously left aside have now been included in discussions. In addition, commitments have been made to resolve problems such as the provision of solutions for former occupancy tenancy rights holders and the validation of judicial and administrative documents issued by the so-called former Republic of Serbian Krajina. Most recently, progress has been made in discussions on regularizing the civil status of Croatian Serb refugees.

In relation to the second component, a number of outstanding problems covering a wide range of mandate-related issues have been identified in four plenary sessions held at the Ministry of Foreign Affairs. Through this forum, the Croatian authorities together with the Mission have identified specific actions to be taken regarding inter-ethnic incidents, the full implementation of human rights guarantees, including the rights of minorities, adherence to the rule of law, civil society development and media reform.

With regard to the third component, the two plenary sessions held with the Minister of Justice to address war crimes issues have not yet been sufficient to produce tangible results. However, issues of concern are being identified, and possible solutions to a range of topics are under discussion.

#### **Short and Mid-term Perspectives**

Several conclusions can be drawn from the current Review:

Firstly, the consolidation of many democratic institutions in Croatia is advancing well with increased self-sustainability notable in three areas covered by the Mission's mandate. In light of the new conditions created by the consultative mechanism of the 'Platform' and the broad agreement on a list of remaining tasks to be accomplished by Croatian authorities, the Mission Management predicts that decisive steps could be made in the areas of civil society development, police reform and freedom of the media by the end of 2006. With the proper functioning of internal checks and balances, the continuation of self-sustainable and democratic progress in these areas would be ensured.

By the end of 2006 the structure of the Mission could therefore reflect these changes with the transformation of:

- the Civil Society and Project Management Unit into a 'Project Management Unit'
- the Police Affairs Unit into a 'Police Advisor to the HoM'
- the Media and Public Affairs Unit into a 'Mission Spokesperson'.

Secondly, progress with regard to issues related to the post-conflict situation, in particular refugee return issues and the even-handed investigation and prosecution of war crimes, are inherently complex and more sensitive. These have the added complication of a regional dimension. There are indications that the agreed deadline for the resolution of political aspects to refugee related issues in the Sarajevo Declaration – the end of 2006 –

may not be met due to delicate inter-state political discussions and financial constraints. With regard to war crime prosecutions, the scope and magnitude of pending issues are such that solutions should only be expected in the longer term. In its decision to transfer the Norac/Ademi indictment, the ICTY acted in part on Mission observations about the Croatian judiciary's capacity to conduct war crime prosecutions as well as on the Mission's readiness to monitor trials pursuant to the agreement between the Chair-in-Office and the ICTY Prosecutor.

Thirdly, in two other areas, the rights of minorities and human rights more generally, progress is satisfactory in some areas, but lags behind in others. The one general conclusion that can be drawn in both areas is that institutions and legal frameworks must be strengthened, and the consistent application of existing laws and regulations must be pressed even when politically difficult. Because of the scope and sensitivity of these issues additional time and persistent efforts will be required.

#### **A Follow-up to the 'Platform'**

The Mission's Field Offices continue to work closely with local and regional government officials and NGOs, and serve as an integral local link to the 'Platform', collecting and evaluating relevant information on Government activities in the areas covered by the Mission's mandate. In that regard, Field Offices concur that decisions agreed at the central level under the auspices of the 'Platform' often fail to reach the regional and local level in a complete and timely manner. This is particularly evident on issues related to refugee return - housing care, repossession and reconstruction - and on measures pertaining to the rights of national minorities.

To date, the 'Platform' has made it possible to agree on common objectives, discuss potential tasks to be accomplished by the Croatian authorities, and check progress on a monthly basis. The Mission will propose that the 'Platform' and its working groups continue to deal with issues that remain outstanding even after the transformation of the Mission structure at the end of 2006.

In addition, it will be necessary to ensure through a follow-up mechanism that the dynamic established with the Croatian authorities is sustained in the future. In that regard, the Mission proposes the establishment of a joint benchmarking system in co-operation with the IC and Croatian authorities. This could commence in the first half of 2007. Such a system would enable all relevant stakeholders to objectively assess the extent to which the tasks identified in this Review have been implemented and the point at which the domestic institutional framework becomes self-sustaining.

## **STATUS OF MANDATE RELATED ISSUES**

### **RIGHTS OF NATIONAL MINORITIES**

#### **Background**

The 2001 Constitution defines Croatia as the Nation State of the Croatian nation, and State of members of ten specified national minorities as well as 'others'. According to the 2001 census, 7.5 per cent of Croatia's four and a half million inhabitants belong to one of 22 national minorities. The Serb minority is the largest, comprising 4.5 per cent of the population in 2001, compared to an estimated 12 per cent in the 1991 census. However, the current number of Croatian Serbs living in Croatia is likely to be significantly higher as a number did not specify their ethnic origin in the 2001 census, and approximately 30,000 refugees have subsequently returned to Croatia. Similarly, Croatia's Roma population is widely estimated to be substantially greater than the 9,000 reported in the 2001 census.

The framework for the protection of national minorities has developed over the course of the Mission's mandate and includes legislation, bilateral agreements, National Programmes and Plans, as well as various international and European Conventions. In late 2002, the Constitutional Law on the Rights of National Minorities (CLNM) was adopted, replacing a minority protection law from 1991.

The CLNM is an inclusive law covering a broad range of political, linguistic, cultural and educational rights. In addition, Croatia has concluded bilateral agreements on the protection of the relevant minorities with Italy, Hungary, and Serbia and Montenegro. The agreement with Serbia and Montenegro provides for a bilateral commission to regularly discuss issues of mutual concern. A National Programme and an Action Plan for Roma have been adopted and certain provisions are currently being implemented. However, further support and full implementation will be required before substantial improvements are observable throughout the Roma community.

Considerable progress has been achieved in implementing the CLNM, particularly in regard to elected representatives. The Parliament currently has eight minority MPs and in local and regional assemblies adequate minority representation has been achieved, although clarification is still needed on how minority quotas should be calculated. Local Councils of National Minorities established by the CLNM as advisory bodies to local and regional self-government units are, with a few positive exceptions, still struggling to be recognized as institutional partners.

Implementation of the CLNM has lagged in some key areas, including the employment of minorities in the State administration, judiciary, and executive and administrative bodies of local government. The CLNM's anti-discrimination provision, an important compliment to the law's affirmative guarantees, remains dormant [see Rule of Law/ Human Rights Protection and Access to Justice]. Legislation implementing the CLNM was adopted as recently as late 2005 and additional implementing legislation is still required. The OSCE High Commissioner on National Minorities has repeatedly expressed concern regarding the physical separation of Croat and Serb schoolchildren in Eastern Slavonia.

## **Joint Objectives**

- Ensure the full and effective participation of national minorities in public life through full implementation of the CLNM, particularly provisions relating to minority employment, political representation, education and non-discrimination;
- Contribute to a general atmosphere of tolerance through education and the media.

## **Minority Employment in the State Administration, Judiciary and Local Administrations**

The CLNM guarantees adequate participation of national minorities in the State administration, which includes the police, the judiciary, and administrative and executive bodies of local and regional self-government units. While the continued unavailability of statistics in many instances complicates assessments on implementation, those which do exist indicate significant under-representation, particularly for Serbs. In the spring of 2006, the Government undertook several administrative and organizational steps to improve the availability of such data. Implementation of this CLNM guarantee is included in the Croatian Road Map as part of the Sarajevo Process, underlining its importance for Serb returnees [see Return and Integration/Sarajevo Process].

Several laws adopted in 2005 provide further means for implementing the CLNM's employment guarantees but no legal mechanism currently exists for enforcing minority employment rights. To date there are no practices in place for encouraging minority applicants to invoke their minority status during the recruitment process. Measures are required to ensure adequate minority representation in public institutions such as schools and hospitals that are not covered by the CLNM

In the State administration and in local and regional self-government units, implementation requires the drafting of employment plans reflecting the number of minorities currently employed and specifying future recruitment. In May this year, the Central State Office for Administration (CSOA) verbally stated that national minorities constitute approximately four per cent of Croatia's 52,000 civil servants, excluding those working in judicial bodies. This data on minority employment will be used to complete the March 2006 Employment Plan for the Civil Service.

According to the CSOA, some of the local and regional self-government units obliged to draft employment plans are in the process, while others are not, citing a lack of financial resources to hire additional employees. However, the law would appear to require that data on current minority employment be compiled regardless of plans to hire additional staff. Further progress toward the inclusion of minorities in the work force of the State administration and local and regional self-government units will require firm guidance from the central level.

Statistics for 2005 from the Ministry of Justice show that national minorities constitute five per cent of all judges, with Serbs comprising 2.4 per cent. Statistics indicate that the overall representation of minorities in the judiciary, including the Serb minority, has essentially remained the same since 2002. Notably, minorities are particularly under represented in entry level positions. The State Judicial Council is responsible for implementation of the CLNM in the judiciary but has yet to establish how it will



incorporate its requirements into the process of appointing judges. The reduced number of courts required by the judicial reform strategy needs to be coordinated with CLNM implementation, particularly in areas with significant minority populations. The Ministry of Justice has indicated that it is preparing an analysis which takes both factors into consideration.

### **Joint Objective**

- To ensure CLNM-guaranteed levels of national minority representation in the judiciary, State administration and administrative and executive bodies of local and regional self-government units, as well as adequate representation in public institutions.

### **Government Tasks**

- CSOA to publish statistics on minority employment in the State administration and issue a supplement to the 2006 Employment Plan for the Civil Service, including data on participation and plans for the recruitment of minorities;
- Local and regional self-government units to publish statistics on minority employment in administrative and executive bodies and issue employment plans, including data on minorities;
- Ministry of Justice to issue an employment plan including data on minorities;
- State Judicial Council to develop a mechanism for implementing CLNM provisions in the process of judicial appointments;
- Government to develop a legal mechanism for the enforcement of minority employment guarantees and design and implement positive measures encouraging minority applicants to apply for employment in the public sector;
- Government to design and implement mechanisms guaranteeing the employment of minorities in public institutions such as schools and hospitals;
- Government to issue the 2005 Annual Report on Implementation of the CLNM including an analysis of employment guarantees.

### **Political Representation of Minorities at the Local Level**

National minorities have the right to proportional representation in the assemblies of local government when they exceed certain population thresholds. Although largely implemented, this provision is complicated by a dispute over how minority quotas should be calculated, i.e. based on the 2001 census, as decided by the Government following the May 2005 local election, or on the most recent voter lists from May 2005, as stipulated in the CLNM. If based on the most recent voter lists, minority representation in local assemblies would be significantly higher in war-affected areas where many refugees have returned since 2001. The question is currently before the Constitutional Court for review and adjudication, at the request of the NGO GONG and the National Council for National Minorities, mandated by the CLNM to support and co-ordinate the participation of minorities in public life at the national level.

The CLNM provides a unique mechanism for dialogue at the local level in the form of elected local Councils of National Minorities (CNMs) which act as advisory bodies to local and regional self-government units. Following their election in May 2003 and

February 2004, CNMs were slow to gain momentum, lacking know-how and in many instances ignored by local authorities. However, following a number of Mission and Government-sponsored training seminars and extensive outreach support, the architecture of CNMs is slowly being consolidated. The emergence of CNM coordinations at the local and regional level is giving more coherence and weight to CNMs across the country. However, as indicated by a national seminar on CNMs organized by the Government Office for National Minorities and the National Council for National Minorities in March 2006, with Mission assistance, various issues remain outstanding.

#### **Joint Objectives**

- Consolidate the architecture of CNMs;
- Institute a method for calculating minority representation in regional and local self government units for use in local elections.

#### **Government Tasks**

- Government to specify the method for calculating minority quotas at the local level and, in view of its concerns with the accuracy of voter lists, clarify the link between residency criteria and voter lists [see Electoral Reform];
- Government to align the dates of the next CNM elections, due in 2007, with the 2009 local elections;
- Government to oblige local and regional self-government units to fulfill their financial and statutory obligations towards CNMs, preferably by uniform instruction from the CSAO;
- Government to discuss the attribution of legal personality to local and regional coordinations of CNMs;
- Government to upgrade the provision of services to CNMs through its Office for National Minorities, in particular by developing its information and training capacities.

#### **Minority Education**

The CLNM and other relevant laws provide national minorities with the right to request education in their minority language and script. Since the peaceful reintegration of Eastern Slavonia in 1998, this has resulted in the physical separation of pupils on ethnic grounds in some schools in this region. The Mission and the High Commissioner for National Minorities believe that the right to specific minority education should be respected but also stress the need for an improved mechanism for integrating all pupils equally into Croatian society.

The problem of history textbooks, stemming from the 1997 moratorium on teaching history related to the 1991-1995 conflict in the Danube Region, was finally resolved in September 2005. Common history textbooks were introduced for all schoolchildren in the region following an agreement between the Government and representatives of the Serb community. A Serbian language supplement for history teachers is currently being prepared and should be in use by September 2006.

### **Joint Objective**

- Promote the implementation of specific rights to minority education where there is a demand, while ensuring that children from national minority groups are fully integrated into society.

### **Government Tasks**

- Ministry of Education to adopt a long-term strategy aimed at the phasing out of physical separation between children of Serb and Croat ethnicity in Eastern Slavonia. In 2006/2007 the Mission, with the support of the Ministry, will sponsor and implement an art, literature and sports contest among children in ethnically mixed primary schools in Eastern Slavonia;
- Ministry of Education to include elements in the national curriculum that better reflect the positive contribution that national minorities have made to the social and cultural life of the country.

### **Conclusion**

In the last couple of years there has been a growing recognition that Croatia is not only the homeland of the Croats but also a multicultural society. This is illustrated by 2006 being officially proclaimed 'Nikola Tesla Year' by the authorities. Nikola Tesla (1856-1943) was a world-renowned inventor in electric techniques born in Croatia but of Serb origin.

The Government of Prime Minister Sanader has taken several opportunities to send positive signals to national minority communities since coming to office in December 2003. However, encouraging developments at the national level are still to be replicated systematically at the local level, where authorities sometimes neglect their obligations under the CLNM.

The consolidation of a general atmosphere of tolerance towards national minorities is as important as a legal framework protecting the rights of minorities. Central and local authorities need to assume a more pro-active approach to inter-ethnic incidents and hate speech [see Police Reform]. An inclusive education system with a curriculum reflecting the positive contribution that minorities have made to Croatian culture would assist the process considerably. Media also have an important role to play through fairer and broader coverage of minority issues which avoid propagating ethnic stereotypes

As national minority communities become more pro-active and capable of promoting their own interests, the Mission will gradually scale down its capacity building activities, particularly related to CNMs, but will continue to monitor and advocate for full implementation of the CLNM. As local authorities, State institutions and the judiciary assume a more open and progressive approach towards minority issues, the Mission foresees its advocacy tasks in this regard lessening throughout the course of 2007.

## ELECTORAL REFORM

### **Background**

OSCE/ODIHR gained a broad understanding of Croatia's electoral framework via its Election Observation Missions between 1997 and 2003 and made a series of recommendations to improve the electoral system. Following up on these issues, in 2004 the Mission focused on advocating inclusion of these recommendations in the Croatian election-related legal framework. Following the exposure of weaknesses in electoral procedure during the January 2005 Presidential elections and the May 2005 local elections, the Government has engaged in electoral reform, working closely with the Mission and outside experts.

In line with the 2002 Constitutional Law on the Rights of National Minorities, the 2005 local elections saw the first election of minority representatives to local and regional assemblies. However, the reference point for calculating minority quotas at the local level – whether the 2001 census or the last confirmed voter lists from May 2005 - is yet to be clarified, including the sorting out of presently flawed voter lists [see Rights of National Minorities/Political Representation of Minorities at the Local Level]. The protracted post-electoral bargaining that took place following the last local elections prompted the Government to propose the direct election of county prefects and mayors. This legislation is currently being prepared with some technical assistance being provided by a Venice Commission/Council of Europe expert through the Mission. The dissolution of local and regional self-government units by the Government for alleged illegality or unconstitutionality, without any prior judicial review, remains an issue of concern.

In December 2005, the Mission facilitated a roundtable in Parliament to review the draft Law on a State Election Commission. Opened by Prime Minister Sanader, the debate focused on establishing a professional and permanent body in charge of administering electoral procedures in Croatia. Subsequently, the ODIHR and the Venice Commission prepared a Joint Opinion on the draft Law on the SEC that has been officially shared with the Croatian authorities. In March 2006, the Parliament adopted the law establishing SEC as a permanent body, with the inclusion of certain recommendations made by the ODIHR and the Council of Europe/Venice Commission.

The Government has also decided to prepare by the end of September a draft Law on the financing of political parties as part of its National Anti-Corruption Programme for 2006/8. The remaining and perhaps the most complex issue of all is the sorting out of voter lists. This will necessitate a discussion on residency criteria and the politically sensitive topic of voting rights for displaced Croatian Serbs and the Croatian Diaspora. The Mission stresses the need to have neutral and transparent procedures applied to all categories of citizens. Progress in this area is expected in late 2006, early 2007.

### **Joint Objective**

- Establishment of a sustainable electoral system, with a permanent election supervision body, in order to fully comply with the international standards prior to the next election cycle.

### **Government Tasks**

- Government to establish a permanent election commission by 29 July, operational by the end of September 2006. The Mission will follow the process, advocating for an extension of the Commission's competencies to the management of voter lists;
- Government to prepare legislation governing the financing of electoral campaigns and political parties with a draft law submitted to Parliament in the second half of 2006. The Mission remains ready to co-organize a roundtable in June or in the autumn on this topic with the Central State Administration Office and NGOs such as GONG and Transparency International Croatia and the participation of the Venice Commission and the ODIHR;
- Government and Parliament to adopt legislation on the direct election of mayors and prefects in line with international standards, and establish a clear mechanism for the dissolution of local government. Co-operation between the Mission, the Council of Europe/Venice Commission and Croatian authorities will continue until adoption of the legislation;
- Government to establish clear, non-discriminatory residency criteria, modernize the voter registration system and clarify out-of-country voting. The Mission has proposed co-organizing a roundtable on these issues in the autumn;
- Government to establish a clear basis for determining minority representation in local and regional self-government units, to clarify resignation procedures *vis à vis* minority councillors and align dates of elections for Councils of National Minorities with the dates for local elections.

### **Conclusion**

It is expected that the transparent regulation of campaign funding, the modern management of residency and voter lists and clarification of the framework for out-of-country voting will be completed within the coming year and be in effect for the 2007 parliamentary and 2009 local elections.

## **RETURN AND INTEGRATION**

### **Background**

It is estimated that between 300,000 and 350,000 Croatian Serbs were involuntarily displaced as a result of the 1991-1995 war. Prior to that, as a result of the 1991 occupation of parts of Croatian territory by Serb forces, 220,000 ethnic Croats had been displaced. The return of internally displaced Croats is now essentially complete with 218,000 returns officially registered, compared to 180,000 in 2001.

As of 30 April 2006, over 120,000 Croatian Serb refugees and displaced persons had registered their return to Croatia. Annual minority return reached its peak in 1999 with 18,000 returnees. Since then, the numbers have regularly decreased until the present with an average return of 8,000 returnees per year. The number of Croatian Serb refugees officially registered in Serbia and Montenegro and Bosnia and Herzegovina has dropped from approximately 270,000 in 2001 (242,624 in Serbia and Montenegro and 24,877 in Bosnia and Herzegovina) to 85,000 in 2006 (78,000 in Serbia and Montenegro and 7,000 in Bosnia and Herzegovina). This reduction reflects not only the fact that refugees have

returned to Croatia but also the reality that many have opted for integration in their country of exile.

It is estimated that only 60 to 65 per cent of registered returns to Croatia are sustainable, as many returnees travel seasonally to Croatia or eventually decide to go back to their countries of refuge, mainly because of persistent difficulties with access to housing, acquired rights and employment.

### **Sarajevo Process**

The first trilateral efforts to promote regional dialogue on return related issues date back to a 2003 initiative by the Presidents of Croatia, Serbia and Montenegro and Bosnia and Herzegovina. However, it was not until the signing of the Sarajevo Declaration on 31 January 2005, that a regional consensus emerged on the need to resolve the political aspects of the return process in a finite timeframe, tentatively the end of 2006.

As institutional partners in the process, the OSCE, UNHCR and the Delegation of the European Commission took on an advisory and facilitating role, providing substantive and financial guidance and expertise to the three States and stimulating dialogue when deadlocks threatened to stall the process.

The initial plan foresaw the drafting of three National Road Maps by the end of April 2005, later to be combined into a Regional Matrix. However, the drafting process proved more complex than first anticipated, with the progressive inclusion of more problematic issues still ongoing. From the eight open issues initially identified in the Croatian Road Map by the two other States, to date two remain pending: 1) a comprehensive solution for former occupancy tenancy rights (OTR) holders who do not wish to return to Croatia; 2) the convalidation of acquired rights - working years, pension rights - for people subject to administration in the formerly occupied territories.

Several issues included in the Croatian Road Map - implementation of the Constitutional Law on the Rights of National Minorities and the exchange of information on war crimes suspects - will be dealt with using other pre-existing mechanisms [see Rights of National Minorities and Rule of Law].

### **Joint Objectives**

- Reinforce inter-State dialogue in order to overcome obstacles to the Sarajevo process;
- Ensure that the National Road Maps and Regional Matrix form a solid political basis for a comprehensive solution to the refugee portfolio in the region and include the most sensitive issues.

### **Government Tasks**

- Government to continue providing good offices in the search for comprehensive and acceptable solutions to issues which remain open;
- Government to ensure that all the benchmarks outlined in the Croatian Road Map, including financial commitments, are implemented in a timely manner.

## Access to Housing

Access to adequate housing constitutes the main pre-condition for a dignified and sustainable process of return. As a result of the 1991-1995 conflict, 190,000 residential properties, both Croatian and Serb, were destroyed or severely damaged; approximately 19,500 predominantly Serb-owned properties in formerly occupied areas were allocated by the State to Bosnian Croat refugees for temporary use; approximately 30,000 OTR holders had their rights to socially owned apartments terminated through Court proceedings or *ex lege*, almost exclusively affecting Croatian Serb households.

The provision of adequate housing to returnees has been a constant focus of the Mission since its creation. Little progress has been observed in the provision of alternative housing to the vulnerable category of *former OTR holders*. Two housing care programmes adopted in 2000 - for formerly occupied areas - and in 2003 - for places outside the war affected areas - still await implementation. In March the Ministry for Maritime Affairs, Traffic, Tourism and Development (MMATTD) presented the Mission and other IC partners with an Implementation Plan for the two housing care programmes which foresees the construction and purchase of 7,000 apartments over a four year period at a total cost of around €300 million. As of June 2006, approximately 8,000 pending housing care applications from former OTR holders are still waiting to be processed. To date, only a few dozen flats have been allocated to returnees.

In 2002 the legal framework for the *repossession of private residential properties* was amended, eliminating some of the problems identified by the IC. However, for much of the period 2001 to 2005, a discriminatory provision remained with an owner's basic right to their property conditional on the prior provision of housing care to the temporary occupants, mainly Bosnian Croats. A change in Government policy over the past couple of years has led to a significant acceleration in the repossession of private property. The process is now nearing completion, with only 219 Serb houses still occupied as of April 2006, compared to 10,000 in 2001 and 19,500 overall. However, complex legal and financial residual issues affecting the use of several hundred private properties by temporary occupants still need to be addressed. Moreover, the Mission is aware of some 20 business and agricultural properties that remain illegally occupied.

At the end of 2005, the Government began a repair programme targeting occupied property devastated by temporary occupants while under State administration. Some 400 owners of formerly occupied houses, who had damages registered upon repossession of their property, will be the beneficiaries of this programme. To date, approximately 207 houses have been assessed for damage, with physical repair completed on four properties. The Mission is aware of more properties which fulfill the eligibility criteria but remain to be included in the programme as well as a number of cases excluded from the programme because damages to properties were not officially recorded upon repossession.

The Government is working on a Conclusion institutionalizing a solution to the problem of unsolicited investments made to occupied properties while under State administration. Temporary occupants currently sue owners in order to obtain compensation for their investments. Several court decisions have ruled in favour of the temporary occupant, obliging owners to reimburse investment costs, leading in some cases to the auction of properties in order to repay the debt. It is expected that the new Government Conclusion

will oblige the State to assume these debts in out-of-court settlements with the temporary users. On the other hand, the State has become increasingly reluctant to pay owners overdue compensation for the use of private property by temporary occupants, even though this is stipulated in amended 2002 legislation. In practice, owners are refused compensation for various legally unsound reasons with many having to seek recourse in the courts.

Major progress has been noted in the *reconstruction of war-damaged properties*, with some 140,000 properties rebuilt by the State so far, from an original 190,000 destroyed in the war. Serb returnees, placed at the bottom of the Government's priority list for reconstruction assistance in 2000, have become major beneficiaries in the last two years, currently accounting for 70 per cent of reconstruction beneficiaries. However, strict eligibility criteria, slow processing of appeals and erroneous war damage categorization remain frequent. The Mission believes that prioritized housing care, in the form of building material, should be provided for those reconstruction applicants unable to realize their right to reconstruction due to strict eligibility criteria.

In December 2005, allegations emerged that the State Agency for Real Estate Transactions (APN) had been involved in purchasing a number of Serb-owned houses using falsified powers of attorney without the knowledge of the legitimate owners. An official investigation has so far confirmed 42 cases of property illegally sold to the State. Since March this year the Mission has been financing a legal aid project supporting the injured parties in 30 ongoing lawsuits.

#### **Joint Objectives**

- Implement the Government housing care programmes for former OTR holders, providing apartments for lease or purchase to this last, major refugee category;
- Find an effective solution to post-repossession problems: the repair of houses devastated by temporary occupants, unsolicited investments made by temporary occupants and the provision of overdue compensation to owners for the use of their property by temporary users/the State;
- Complete the repossession of agricultural land and commercial premises;
- Prioritize housing care for owners of damaged houses deemed ineligible for State reconstruction.

#### **Government Tasks**

- MMATTD to complete the administrative processing of the 4,400 pending applications for housing care from former-OTR holders outside ASSC by the end of 2006;
- MMATTD to accelerate the provision of housing care to former OTR holders, with the physical provision of building material or the lease of a State-owned apartment or family house. The construction and purchase of apartments should intensify at the beginning of 2007 when the preparatory administration - identification of land plots, adoption of zoning plans and building permits – has been advanced;
- MMATTD to earmark a total of two billion HKN (approximately €270 million) in the State budget until 2009 in order to ensure the allocation of an envisaged 7,000 apartments to all eligible former OTR holders;



- MMATTD to complete the repair of 400 repossessed properties devastated by temporary occupants and include other eligible cases through an adequate administrative procedure by the end of 2006;
- MMATTD to reach prompt out-of-court settlements with temporary occupants who filed claims for unsolicited investments to occupied properties;
- MMATTD to complete repossession of the remaining cases of occupied agricultural land and business premises;
- MMATTD to process 2,000 first instance reconstruction claims by autumn 2006 and implement an improved appeals procedure in order to finalize the process by mid-2007;
- MMATTD to complete reconstruction of the remaining 8,000 war damaged residential properties by mid 2007;
- With Mission assistance, MMATTD to prioritize the provision of building material to applicants with damaged houses who received negative decisions on reconstruction due to strict eligibility criteria.
- Relevant courts to pursue the restitution of 30 properties sold to APN through falsified powers of attorney.

### **Infrastructure**

In terms of basic communal infrastructure in war affected areas, the legacy of the 1991-1995 conflict has had a particularly adverse impact on Serb returnee villages. The electrical network in minority return areas was completely destroyed and in some cases basic equipment was deliberately removed following the reintegration of formerly occupied areas in 1995. In most cases, the water supply system requires work to ensure basic levels of sanitation and in areas where there was no water supply prior to the war wells are often in need of extensive cleaning and repair.

Following extensive monitoring in the field, the Mission began producing electrification surveys in return areas in the summer of 2004, identifying more than 300 Serb villages and hamlets in need of re-electrification. In tandem with this, the Mission began actively lobbying with the competent State bodies, the MMATTD, the Croatian Electricity Company HEP and the Croatian Water Authorities for the improvement of the basic infrastructure in these areas. This has produced a convincing political prioritization of the problem by the MMATTD and relevant State agencies, with an increased financial commitment from the Government and substantive dialogue with the Mission on the overall streamlining of the process. So far, around 30 per cent of the villages identified by the Mission in 2004 have been reconnected to the electrical network.

In addition to this, the Mission produced an analytical survey of the water supply network in return areas in 2005. This was shared with the Government and commended as thorough by the Croatian Water Authorities. Encouraged by progress in the field of re-electrification, the Mission is currently advocating that greater Government attention is focused on improving the water supply system and road conditions in minority return areas.

Several surveys conducted among Croatian Serb refugees confirm that the condition of basic infrastructure in return areas remains one of the more important factors affecting the sustainability of return.

**Joint Objective**

- Encourage sustainable return by improving the basic infrastructure in return areas : re-electrification, water supply and roads.

**Government Tasks**

- HEP to pursue the re-electrification of return villages between 2006/2008;
- Croatian Water Authorities and local and regional self-government units to improve co-operation between the various communal water suppliers, the Mission, donors and other relevant actors on the repair and construction of water supply networks;
- Croatian Roads and local and regional self-government units to work on improving road conditions in return areas following the Mission's review of the issue.

**Acquired Rights - Convalidation and Unconditional Return to Croatia****Convalidation**

The 1997 Law on Convalidation was passed with the aim of enabling judicial and administrative documents issued by the authorities of the so-called, former Republic of Serbian Krajina to be validated. A 1998 Government Decree established a one-year application period for the convalidation of pensions and working years. Over 70 per cent of the total number of persons who have so far returned to Croatia (some 100,000 individuals) did so after expiry of the April 1999 deadline.

For over seven years the Mission has repeatedly requested that a new deadline be set for such convalidation applications. The issue has been debated extensively within the context of the Sarajevo process and in February 2006 was incorporated as a short-term political criterion in the EU Accession Partnership with Croatia.

**Unconditional Return**

Many Serbs displaced from Croatia between 1991 and 1995 had citizenship of another republic of the former Yugoslavia, although they resided on the territory of the former Socialist Republic of Croatia for most of their lives. Since the end of hostilities, this specific category of returnees has faced particular difficulties regulating their civil status upon return to Croatia, being legally regarded as first time immigrants.

Upon the advice of the Mission and its IC partners, this situation was remedied in 2003 with the adoption of Article 115 of the Law on Foreigners, which established a more favorable mechanism for the regularization of civil status and acquisition of Croatian citizenship for this category of people. However, these new regulations were not implemented in a uniform manner by the Ministry of Interior and the application deadline expired on 30 June 2005. Responding to repeated requests by the Mission, the Ministry of Interior has recently offered to regularize, on humanitarian grounds, the status of people who still wish to apply. Article 47 of the Law on Foreigners will be invoked in order to declare these individuals of 'particular interest to the Republic of Croatia'.

**Joint Objectives**

- Ensure economic viability for returnees by re-opening the deadline for the convalidation of working years spent in the former Republic of Serbian Krajina;

- Ensure that all interested returnees are able to regulate their status under either Article 115 or Article 47 of the Law on Foreigners, thus gaining access to other substantial rights and ultimately Croatian citizenship.

#### **Government Tasks**

- Ministry of Economy, Labour and Entrepreneurship to re-open the application deadline for convalidating working years in formerly occupied areas, ensure the swift processing of pending cases and resolve the problem of non-validated marriages in the Danube region;
- Ministry of Interior to review cases the Mission deems contravene the spirit of Article 115 of the Law on Foreigners and ensure that invocation of Article 47 actually remedies flaws in the implementation of Article 115.

#### **Judicial Issues Remaining After the Sarajevo Process**

Numerous proceedings pending before Croatian courts raise human rights issues related to the return of private property, judicial termination of OTR, and State compensation for conflict-related damages resulting from terrorist acts or military and police actions. The Mission is frequently called upon to intervene with the Government on a case-by-case basis and continues to support legal aid projects. To date, such questions have primarily been decided by the European Court of Human Rights (ECHR). If this pattern continues, the resolution of numerous individual cases as well as open human rights questions will likely extend long beyond the life of the Sarajevo process. It would be preferable that these judicial disputes, which are primarily between individuals and the State, be resolved in the short-term, in line with a consistent Government policy.

The ECHR is currently reviewing the legal framework for the return of occupied property as well as compensation arrangements for the State's use of such property. Clarification of the legal issues involved in judicial OTR terminations failed to materialize when the ECHR declined to review *Blecic v. Croatia* for procedural reasons in March 2006. However, cases pending at the ECHR and in Croatia make it likely that legal questions related to such terminations will be addressed in the future. Of particular concern are ongoing judicial proceedings to terminate the OTR of people who have resided continuously in their flats as well as terminations based on participation in enemy activity that do not follow the Constitutional Court's (CC) interpretation. The rights of several thousand former OTR holders in Eastern Slavonia also remain to be clarified given the legal ambiguities that arise from this territory having been outside the legal system of Croatia from late 1991 until early 1998.

In response to negative ECHR judgments, Parliament adopted two laws in 2003 reactivating lawsuits it had suspended in the 1990s. These lawsuits seek compensation for property damage or personal injury caused by terrorist acts and military and police actions between 1990 and 1996. The new laws adopted stricter legal criteria, which when applied to a limited number of cases pending since the 1990s, retroactively narrowed the applicable legal standards, leaving some who previously had viable claims without any remedy. Challenges to these laws for eliminating pending judicial claims which amount to protected property interests are pending at the CC and are likely to go to the ECHR.

### **Joint Objectives**

- Ensure timely repossession of occupied private property subject to judicial dispute;
- Establish consistency between the State's obligation to provide housing care and its continued attempts to seek judicial OTR terminations ;
- Ensure that the Laws on Terrorist Acts and Military and Police Damage do not inappropriately and retroactively eliminate judicial claims submitted under previously applicable legislation.

### **Government Tasks**

- Government to clarify on a periodic basis: 1) status of pending repossession lawsuits including those related to agricultural land and commercial premises; 2) status and legal basis for ongoing OTR terminations in Croatian courts and at the ECHR; 3) status of pending lawsuits seeking compensation under the 2003 laws for damages caused by terrorist acts and military and police actions between 1990-96;
- Government to re-assess pending OTR termination cases to determine whether termination and eviction serve a legitimate, contemporary State policy and whether consistent with CC interpretations;
- Government to amend law on damages for terrorist acts to prevent the retroactive elimination of some pending claims, primarily by Serb property owners who cannot obtain Government financed reconstruction ;
- Government to re-assess, for the purposes of previously pending cases only, the legal definition of 'non-war damage' and the burden of proof in the military and police damages law.

### **Conclusion**

In the area of return and integration, the implementation of proposed Government programmes for reconstruction, housing care and infrastructure will require time and considerable financial outlay as well as organizational and administrative effort locally and nationally. The inauguration and implementation of Government plans to provide some 7,000 apartments by 2011, as part of its housing solution for former OTR holders, will stand at the forefront of this effort and will require substantial Mission monitoring and evaluation activities.

If present plans are adhered to, steady progress in housing reconstruction in most of the areas covered by the Mission's field presence can be expected. The Mission will be working closely with the Government, local authorities and State utility companies to re-establish basic communal infrastructure (electricity, water, roads) in areas of significant refugee return.

While the repossession of occupied properties will have virtually been completed by the end of 2006, monitoring a relatively small number of remaining restitution cases and of other commercial and agricultural property disputes arising from the conflict will be necessary. All of the above activities will take place within the political framework of the Sarajevo Process, targeted for completion by the end of 2006.

Numerous cases raising human rights issues related to private property, OTR, and State compensation for conflict-related damages are pending in the courts. If Government

initiatives to address these pending judicial cases do not materialize, final clarification will likely be provided by the ECHR beyond the life of the Sarajevo Process.

## RULE OF LAW

### **Background**

Since the Mission's inception, much of its work has focused on securing rights through political intervention. Rights so obtained remain vulnerable and are often unsustainable beyond individual cases. The systematic availability of reliable, timely and effective remedies through courts and administrative bodies is of key importance for all Croatians and especially for those populations of particular interest to the Mission, national minorities, displaced persons and refugees. Not infrequently such remedies have not been available from Croatian institutions and rights have been vindicated by institutions outside Croatia, such as the ECHR [see Refugee Return / Judicial Issues Remaining after the Sarajevo Process].

Judicial reform efforts started in late 2000, with a series of reform plans and strategies issued in the intervening years, which were accompanied by both new legislation and other measures. Most recently, in September 2005, the Minister of Justice issued a Judicial Reform Strategy that specifies short, medium, and long-term measures to address identified concerns. The first concerted efforts in terms of reform of the State administration were taken after the election of the current Government in late 2003, with developments primarily within the last year.

While underway, judicial and administrative reforms have yet to become sufficiently consolidated so that the impact is routinely felt by the 'consumers' of these institutions. Extensive judicial delays continue. While judges at the national level are freed of election-related duties as of 2006, judges at the local level continue to have substantial duties related to the conduct of elections. Reform of the State administration system has begun with the adoption of numerous laws and other organizational measures, however, significant delays and concerns about transparency remain.

The public continues to perceive corruption as endemic to public services, the judiciary being seen as one of the least responsive institutions. In early April, Parliament adopted a National Anti-Corruption Programme for 2006/8, which includes measures intended to root out corruption in the judiciary. Implementation will be key. Based on an increased number of complaints in 2005, the Ombudsman has suggested that there are not yet sufficient measures for addressing the quality of judges' work and the threat to their impartiality and independence posed by political interference and corruption. Institutional reforms should be implemented in harmony with legal guarantees related to national minority representation in the judiciary and State administration [see Rights of National Minorities/Minority Employment in the State Administration, Judiciary and Local Administrations].

The most appropriate substitutes for Mission intervention on rights issues are strong institutions, a robust civil society, and a public well-informed about its rights. Assistance

to the Government's long-term institutional reform efforts remains primarily the domain of the European Union and other international actors. Nonetheless, the Mission's insight into the functioning of State institutions gained from following numerous mandate related cases at the national and local level, such as property repossession and war crime prosecutions, can contribute to tailoring reforms.

### **Human Rights Protection and Access to Justice**

During the process of institutional reform, human rights safeguards are key. Since 2005, the human rights *Ombudsman* has increasingly assumed responsibility for ensuring compliance with human rights standards within the limits of his mandate. The *Constitutional Court* (CC) is yet to seize fully its role in ensuring respect for fundamental constitutional principles, including respect for human rights. Parliament's appointment of nine of 13 CC judges in 2007 should be conducted transparently and enhance the independence, impartiality, and authority of the CC. Insufficient Government support, including budgetary support, for both institutions continues to constrain their effective operation. The Government has indicated its intention to replace Mission project funding, on which both institutions currently rely, by increasing financial support in 2007 and beyond.

Human rights enforcement since 2001 has been largely driven by the ECHR, whose judgments against Croatia have pushed the CC to revise its case law and enhance its effectiveness as a domestic remedy. Since 2002, the CC has been preoccupied with assessing the human rights implications of widespread judicial delays, the scope of which have increased since 2001 despite judicial reform efforts. As of 2006, a new system for the review of judicial delays has been implemented, which significantly reduces the CC's supervisory role, freeing it to focus on more substantive constitutional and human rights issues. However, it is too soon to tell how well this new system will function.

ECHR case law suggests some gaps in the CC's jurisdiction that prevent it from serving as an effective domestic remedy in all instances. The CC's effectiveness is undermined when State bodies fail to adhere to its interpretations. The CC, together with the entire judiciary, is weakened by Parliament's self-delegated and unusual authority to 'authentically interpret' laws. As a complement to the CC's activity, lower courts should also be encouraged to exercise their authority to apply constitutional and other human rights standards.

The Ombudsman has increasingly exercised his authority to respond to individual complaints as well as institutional weaknesses that give rise to human rights concerns. For example, in early 2006, the Ombudsman reported to Parliament on overcrowding and sub-standard conditions in Croatian prisons and found that from 2000 to 2005 complaints about improper police conduct doubled. The Ombudsman highlighted that administrative bodies frequently do not observe legal deadlines and lack systematized forms and procedures, all of which leads to a lack of transparency. Enhanced implementation of the law providing public access to information should improve transparency.

Delays in administrative proceedings persist, an issue currently under review by the ECHR. The CC ruled in 2000 that the *Administrative Court*, which is the appellate body for all decisions by the State administration, is not a court of full jurisdiction in

accordance with the fair trial requirements of the European Convention on Human Rights. The CC pointed to the Administrative Court's limited ability to establish facts independently and conduct hearings. Reforms to address these shortcomings have yet to be implemented.

Several specialized Ombudsman institutions have been established since 2001, although it remains unclear whether multiple institutions will be financially sustainable or effective. In 2005, the Ombudsman for Gender Equality noted an increased number of complaints alleging sexual harassment in the workplace and widespread failure of public and private sector employers to address such complaints appropriately. She also noted that school books and curricula perpetuate sexrole stereotypes.

Croatia has indicated its intention to adopt legislation by the end of 2006 that would establish a system of *free legal aid* in civil cases. A draft law has recently been re-submitted to the Council of Europe for assessment. The Mission, the ODHIR, other international organizations, bilateral donors, and the Government continue to fund free legal aid, particularly related to refugee return.

*Equality of all persons* is the basic norm enshrined in the Constitution and reiterated in international instruments and domestic law, including the Constitutional Law on the Rights of National Minorities. The current legal framework prohibits discrimination in some areas of public life, such as employment, while not in others, such as housing, education and public services. In order to ensure full equality of all persons, in line with European Conventions ratified by Croatia, vigorous implementation of existing measures as well as the possible adoption of additional legislation is needed.

#### **Joint Objectives**

- Strengthen access to effective human rights protection including through reinforced and adequately resourced human rights institutions – the CC and the Ombudsman;
- Adopt and enforce legal guarantees for equal treatment of all persons in all aspects of public life.

#### **Government Tasks**

- Government and Parliament to provide adequate funding for the Constitutional Court and the Human Rights Ombudsman in the 2007 State budget and thereafter;
- Government and Parliament to review the CC's statute for possible gaps in jurisdiction in light of ECHR case law;
- Parliament to create conditions for transparent public debate on CC appointments in 2007;
- Government and Parliament to re-assess Parliament's authority to issue 'authentic interpretations' of laws;
- Ministry of Justice and State Attorney to ensure greater adherence to the constitutional interpretations of the CC through the Ministry of Justice/State Attorney.
- Government and Parliament to adopt a Free Legal Aid Law and secure a consistent funding source in 2006 and thereafter;
- Government to fully implement the Gender Equality Law;

- Government and Parliament to adjust legislation to ensure adequate measures to combat discrimination in all areas of public life.

### **Prosecution of War Crimes and Transfer of ICTY Cases**

Since 2001, Croatia has remained very active in the prosecution of war crimes. In 2005 alone, nearly 250 persons were subject to war crimes proceedings. As of May 2006, Croatia is seeking approximately 1100 persons on suspicion of war crimes, while around 400 additional persons are sought on the basis of *in absentia* convictions. The list of persons sought is fluid, reflecting both continuing review to eliminate unsubstantiated cases as well as the initiation of new cases. Croatia is the only State in the region that has compiled such a list of wanted persons, which when shared with relevant authorities in neighboring states could provide the basis for systematically resolving the cases of accused persons residing in those states.

The overwhelming majority of proceedings continue to be against Serbs for crimes against Croats. While diminishing in impact, national origin continues to be a factor in determining against whom and what crimes are prosecuted, with discrepancies seen in the types of conduct charged and the severity of sentencing. In part, this reflects the fact that proceedings initiated in earlier years are still ongoing. Since 2002, remedial measures to correct some past excesses have been undertaken by the Chief State Attorney. Prosecution of several Croats, including a prominent Member of Parliament, for crimes against Serbs shows invigorated effort in the direction of implementing even-handed accountability. NGOs have recently undertaken more systematic efforts to address issues related to the prosecution of war crimes.

Despite the establishment of special courts, the vast majority of war crimes are still tried in the community where the crime occurred, raising concerns related to witness security and impartiality. While the number of *in absentia* trials has decreased, in 2005 more than half of all accused and more than 70 per cent of Serb accused were tried *in absentia*. The Supreme Court continues to address significant errors by local courts as indicated by a reversal rate of 65 per cent in 2005. Nearly 75 per cent of accused on trial in 2005 were represented by a court-appointed defense counsel, some with limited knowledge or experience in the area of war crimes. Approximately two-thirds of these accused shared their court-appointed attorney with between one and four co-accused, primarily in *in absentia* trials.

The inter-linkage between prosecutions in Croatia and at the ICTY has become evident with the transfer of the Norac/Ademi indictment to Croatia in parallel with increased activity at the ICTY in Croatia-related cases in 2005/6. The 'Completion Strategy' transfers heighten the focus on the adequacy of the legal framework and capacity of State institutions and services. The cases at the ICTY provide a stark reminder of the politicized environment in which Croatian prosecutions are conducted. The State policy in support of Croatian ICTY indictees contrasts noticeably with the legal obligation to prosecute war crimes impartially at home.

Croatia's judicial co-operation with Serbia and Montenegro and Bosnia and Herzegovina, which was virtually non-existent in 2001, has improved, particularly between prosecutors.



Recent initiatives have also created the basis for enhanced police co-operation. However, as indicated during four OSCE-facilitated meetings between November 2004 and April 2006, the legal frameworks of the three countries significantly restrict the forms of inter-state co-operation by *inter alia* barring the extradition of nationals and the transfer of proceedings, thereby facilitating impunity. Systematic co-operation in relation to the large number of suspects and convicted persons sought by Croatia as well as those wanted by the other States would provide a means for beginning to close the chapter on war crime prosecutions and enhance regional stability and facilitate refugee return.

Political support for the efforts of the police, prosecutors, and judiciary – as well as witnesses who co-operate with authorities - is essential. This includes a commitment to prosecute war crimes impartially, address remaining gaps and obstacles in legislation, services, facilities, and training as well as political and legal responses to attempted interference in investigations or prosecutions.

Starting in April 2006, two ‘Platform’ plenary meetings were convened with the Minister of Justice, the Chief State Attorney, and representatives of the Supreme Court to address concerns related to the prosecution of war crimes. This forum has begun to identify issues of concern as well as discuss possible solutions. Issues flagged for further discussion and action include lowering specific legal barriers to inter-state judicial co-operation, enhancing witness security, ensuring adequate court-appointed defense, and a systematic means of addressing the problem of persons sought by Croatia for war crimes in neighbouring states. Possible solutions include the amendment of domestic law and ratification of Council of Europe Conventions.

#### **Joint Objectives**

- All relevant State institutions to end impunity as well as collective guilt through the apportionment of individual responsibility for war crimes;
- All relevant State institutions to promote even-handed and impartial adjudication with the application of a uniform standard of criminal accountability, regardless of the national origin of the accused or victims.

#### **Government Tasks**

- Government and Parliament to reduce legal obstacles to enhanced forms of inter-state judicial and police co-operation through, *inter alia*, ratification of relevant Council of Europe conventions and harmonization of domestic law;
- All relevant State institutions to ensure a single standard for the administration of justice in war crime prosecutions, whether cases are tried in special courts or local courts and whether cases are transferred from the ICTY or initiated domestically;
- All relevant State institutions to make further observable progress towards the elimination of ethnic bias in prosecutions, including implementation of a uniform standard of criminal accountability;
- Government and Parliament to adopt measures to ensure the integrity of witness testimony and witness support services;
- Government and Parliament to adopt measures to ensure that adequate defense is provided by court-appointed defense counsels;
- In co-operation with Serbia, Montenegro, and Bosnia and Herzegovina, relevant State institutions to establish a mechanism for the systematic resolution of all

cases of persons wanted by Croatia for war crimes, including those convicted *in absentia*, demonstrating observable progress in the mid-term.

### **Missing persons**

Since 2001, significant progress has been made toward adoption of an even-handed approach to the location and identification of persons missing since the 1991-1995 conflict, regardless of national origin. In early 2006, an agreement on comprehensive lists of approximately 2,500 persons missing from Croatia was reached between Croatia, Serbia and Montenegro, and Bosnia and Herzegovina. Based on this agreed data, it is anticipated that in late 2006 the International Committee for the Red Cross will issue a definitive list in a publication entitled 'Book of the Missing'. Similar publications have been produced for Bosnia and Herzegovina and Kosovo. This book would serve as the basis for further co-operation between the States in terms of resolving outstanding cases.

### **Joint Objective**

- To resolve all open cases of missing persons in Croatia within a reasonable timeframe.

### **Government Task**

- Government to continue regular co-operation between the Missing Persons Commissions of Croatia, Serbia, Montenegro and Bosnia and Herzegovina for the purpose of exchanging information and remains with periodic reports on outcomes and results.

### **Conclusion**

Democratization of Croatia's judiciary and State administration is ongoing. Particular challenges to the reform process are posed by Croatia's legacy of armed conflict as well as its status as a successor state. The consolidation of reforms, including an observable impact on individual proceedings, will continue for some years beyond the mandate of the Mission. The Mission will continue to support the human rights Ombudsman and the Constitutional Court through project work. The Mission will also continue to follow the impact of institutional reform measures in individual proceedings at the local level.

It is anticipated that several hundred accused will be involved in war crime proceedings during 2006. Among the most notable trials will be that of Norac and Ademi, transferred from The Hague as part of the ICTY Completion Strategy and anticipated to begin in the latter part of 2006. Proceedings will continue throughout 2007 and will involve extensive Mission monitoring. 'Progress' will be measured in terms of the adoption of reforms as well as improved quality and fairness in relation to war crime prosecutions in general and individual proceedings in particular, regardless of national origin. The monitoring capacity of NGOs is just beginning to develop. The development of mechanisms to address the significant number of persons wanted by Croatia, including persons convicted *in absentia*, would be an initial step towards closing the chapter on war crimes prosecution. The Mission continues to see the need for improved witness security and support, increased attention to the quality of legal defense, as well as more effective inter-state judicial co-operation. As such, it is anticipated that considerable time and effort will be dedicated to war crime related issues in 2007 and probably 2008, including trial monitoring.

Given the significant number of judicial proceedings of direct relevance to the Mission's mandate, including war crime prosecutions as well as disputes related to return and integration issues, it is anticipated that the Rule of Law Unit will continue the present staffing strength both in the Headquarters and in Field Offices throughout 2007.

## POLICE REFORM

### **Background**

In October 1998, the OSCE Police Monitoring Group (PMG) took over the UN Police Support Group's role of monitoring police in the Danube Region, with some 180 Mission police monitors working in the region. Following a sufficient improvement in the security situation, the PMG ended its mandate in October 2000 and a Police Affairs Unit was created within the Mission. The aim of the Unit was to support the establishment of a Police Service with democratic values, respecting and protecting human rights and the rights of minorities, and gaining public confidence through co-operation and transparency.

Since 2001, when the new Law on Police came into force, the Ministry of Interior has shown a willingness to pursue reform within the police force. The security environment in Croatia has improved substantially over the years with local communities expressing greater confidence in the work of the police. However, both the size and the organizational structure of the police require further adjustment in order to advance towards a modern, service-oriented police force. National minorities and women are still under-represented in the police force: approximately ten per cent of police officers are women and between four and five per cent are national minority members. However, the situation is improving. Out of the total number of applicants enrolled in the Police Academy's class of 2006, approximately 30 per cent were women and seven per cent belonged to a national minority.

In 2003, the Mission assessed the human resource management (HRM) system of the Ministry of Interior. Findings indicated that despite an overall improvement in police performance, the system needed further reform in order to enhance its operational capacities and to safeguard the police from political interference. Numerous inexplicable transfers and promotions in the last five years underscore the pressing nature of the latter issue. The basis for internal reform will be jointly defined by the new Law on Civil Service and the Law on Police, which is currently being drafted. The Ministry has also formed a working group for internal reorganization and applied for assistance in reforming the training and HRM system through the EU's PHARE Programme. The Mission will continue to provide assistance to the Ministry in implementing the 'Road Map for the Croatian Police,' initiated in 2004 in co-operation with the Mission.

Since 2003, the Ministry and the Mission have both invested considerable effort in introducing a community policing concept in Croatia. However, continued progress is contingent on firm political will. By the end of 2006, the training of community policing officers will be completed with contact officers deployed in Police Administrations across the country. Currently their presence seems insufficient in areas of return where reconciliation requires additional support.

There are indications that inter-ethnic incidents have not decreased over the last few years, at least not in the war affected areas. No satisfactory legal definition of ethnically motivated incidents or hate crimes yet exists in Croatia. Currently, the police do not have adequate standards or uniform guidance for reporting or following up on such incidents. Implementation of a Programme on Combating Hate Crime was begun in 2005 by the Police Academy in Zagreb in co-operation with OSCE/ODHIR. To date, development of the project has been slow. Awareness of the issue also needs to be raised within the judiciary.

#### **Joint Objectives**

- To institutionalize a modern, efficient police force which can ensure a secure environment for all Croatian citizens and visitors;
- To strengthen implementation of the community policing concept in accordance with the Croatian 'Action Strategy for Community Policing';
- To streamline police procedures regarding inter-ethnic incidents.

#### **Government Tasks**

- Ministry of Interior to modernize the human resource management system. The Mission will continue to provide expertise to facilitate the development of a performance-related system based on set criteria. In co-operation with the Ministry, the Mission will organize roundtables and seminars in the autumn of this year in order to speed up the process of internal reform;
- Ministry of Interior to fully implement the community policing concept. The Mission will insist on further training for middle management staff and enhanced co-operation between local authorities and the police. The Mission will organize several seminars on Crime Prevention Councils in local communities and insist on a revision of the legislation currently regulating such co-operation;
- Ministry of Interior to finalize the 'Road Map for the Croatian Police'. In 2006, the Mission will assist the Ministry in finalizing the Road Map's implementation plan;
- Government and Parliament to draft specific legislation defining what constitutes an inter-ethnic incident and introduce internal directives and regulations for State bodies dealing with such incidents. The Mission has proposed organizing several roundtables on this issue in 2006 in co-operation with the Ministries of Interior and Justice.

#### **Conclusion**

Initial reform of the human resource management system and full implementation of the community policing concept should be well underway by the end of 2006. The Mission will continue to provide expert advice in connection with police reform and police handling of inter-ethnic incidents and hate crime but believes that the Ministry of Interior has now demonstrated the will and capacity to conduct future reforms largely unassisted. Subsequently, the Police Affairs Unit could be replaced by a Police Advisor to the HoM who would focus on close assistance to the Ministry of Interior and facilitate joint activities.

Bearing in mind previous far-reaching reductions in Police Unit staff, careful consideration needs to be given as to how this new function will be manned.

## CIVIL SOCIETY DEVELOPMENT

### **Background**

In the 1990s, the relationship between the Government and the NGO sector was largely characterized by mutual distrust, although some groundwork was laid for the development of civil society. This began to change at the end of 1998, when the Government Office for Co-operation with NGOs was established as a result of pressure exerted by the IC. New Government policy then emerged in 2000 with an increasing recognition that civil society is a necessary precondition for consolidating a country's democratic credentials. Due to the underdevelopment of the NGO sector, initial Mission efforts to support civil society focused on small-scale, grassroots projects.

In 2001, civil society development was given added impetus when the Law on Associations was harmonized with democratic standards and the Draft Programme on Co-operation between the Government and the Non-Governmental, Non-Profit Sector was adopted. In tandem with Government efforts to build an institutional framework for civil society, the Mission began to develop larger-scale projects in 2003 aimed at democratic institution-building. While there are 29,672 registered associations in Croatia, over 70 per cent focus on sports, cultural, economic, technical, and war veteran's issues. Few NGOs are involved in human rights and other advocacy matters. The NGO sector is not yet consolidated and few NGOs are professionally staffed organizations with appropriate budgets. The Mission co-operates with approximately 40 NGOs specialized in human rights, minorities, elections and democratic governance, which are often viewed with suspicion by governmental bodies.

In the past two to three years, the Government and the wider public are gaining a more positive perception of NGOs. However, co-operation and professionalism within the sector is insufficient and NGO programmes tend to be short-term due to financial constraints. Leading advocacy NGOs continue to be sustained by international donors. This is expected to change with the introduction of a comprehensive legal framework and National Strategy aimed at creating a sustainable environment for civil society. These are scheduled for adoption in 2006 and will include financial measures. It is particularly encouraging that NGOs have demonstrated the potential to work together on key issues on an *ad hoc* basis and have been effective in the areas of peace-building, youth, gender, elections, legal assistance, the environment, local partnership and cross-border co-operation.

### **Legal and Institutional Framework for Civil Society**

By 2003, a tripartite institutional model was created to oversee civil society development consisting of the Government Office for Co-operation with NGOs, the Council for Civil Society Development and the National Foundation for Civil Society Development. Co-operation between these new civil society institutions remains weak, and the process of defining respective roles and responsibilities is still ongoing. Key legislation recognizing tax benefit status for NGOs, funds and foundations, transparent State financing of NGO activities, non-profit entrepreneurship and volunteer activities, have remained pending since 2003. The Government's National Strategy for civil society development, expected to introduce comprehensive measures for the sector, has been drafted for the third time, after last year's drafting process was strongly criticized by a host of civil society actors.

### **Joint Objective**

- Create conditions for sustainable civil society development, less dependant on external support, by introducing a legal framework and strengthening co-operation between Government institutions.

### **Government Tasks**

- Government and Parliament to adopt comprehensive legislation for the non-governmental, non-profit sector;
- Government to adopt the National Strategy and operational plan, to be implemented by governmental bodies and institutions, local authorities and civil society;
- Civil society institutions to define and strengthen their complementary roles: the National Council for Civil Society Development as a consultative and expert body; the Government Office for Co-operation with NGOs in terms of financing, coordination and advocacy; and the National Foundation in terms of completing decentralization and supporting local civil society development.

### **Local Civil Society Development and Support**

By 2003, most international organisations had withdrawn from the war-affected regions of Dalmatia, Central Croatia and Slavonia, areas where civil society development has been slow. Since then, the Mission has supported 37 good governance projects in co-operation with local and regional authorities to build their capacity and to encourage participatory democratic processes. Due to the limited capacity of local authorities to form partnerships with civil society, the Mission has encouraged Charters on Co-operation between local and regional self-government units and the non-profit sector.

Together with civil society institutions, international partners and NGOs, the Mission is addressing the pending issue of a sustainable network of NGO support. This poses a particular challenge to grant schemes that need to reach economically depressed, war-affected areas. While regional support models are being developed in Dalmatia, Slavonia and Istria, the area of Central Croatia has been neglected. Since 2003, civil society institutions overlooked this issue while focusing on their own capacity-building. The Mission field presence assisted in filling the gap by providing support to less-developed NGOs, together with a few professional NGOs. In the second half of 2006, the Mission expects to address the issue of a sustainable NGO support network with the Government.

### **Joint Objectives**

- Improve conditions for civil society development at the local level by promoting accountability, transparency and professionalism within local authorities and NGOs;
- Create a sustainable NGO support infrastructure across the country that builds on existing structures and resources and accounts for regional needs and capacities.

### **Tasks**

- Government bodies, local and regional self-government units and civil society actors to facilitate implementation of four projects in 30 municipalities introducing Charters on Co-operation between local authorities and NGOs, to

adopt existing draft Charters and Agreements and to demonstrate implementation of Charters already adopted;

- Government bodies, local and regional self-government units and civil society actors to facilitate implementation of a national pilot project contributing to the Local Democracy Academy's capacity to train civil servants, elected officials and employees;
- Local and regional self-government units and civil society actors to jointly implement nine good governance projects in 20 municipalities providing training for municipal councillors and promoting citizen participation through local boards;
- National Foundation and civil society organizations to facilitate the creation of an NGO support infrastructure and encourage networking and capacity-building among volunteer associations, professional organizations and local authorities.

### **Conclusion**

Building on five years of Mission coordinated efforts by NGOs, national and local government and the IC, civil society development was given an added boost in 2006 with the establishment of the 'Platform' and subsequent agreement on a five point agenda. The agenda foresees the consolidation of a legal, financial and policy framework in which civil society can function effectively and freely in Croatia. Adoption of the National Strategy and operational plan, as well as pending legislation, is expected this year. A period of monitoring and reporting on the implementation and effectiveness of these structures will be required. This will be particularly necessary outside Zagreb and the larger cities where many local and regional authorities are yet to alter their perception of the NGO sector.

With the completion of a national structure within which civil society can develop, the Civil Society and Project Management Unit will focus on the implementation of Mission projects and could be transformed into a 'Project Management Unit' starting from 1 January 2007. The Unit will thus continue to provide project management support for all Mission projects funded from core and extra-budgetary sources. Considering that the Unit has significantly decreased since 2001, it is expected that a core staff, operating from the both the Headquarters and Field Offices, will be required to deal with all aspects of project management.

## **FREEDOM OF THE MEDIA**

### **Background**

When the Mission began operations in 1996, media in Croatia faced the difficulties of a post-conflict situation. Up until the end of 2000, most media outlets were politically controlled and any independent media was subject to overt pressure and harassment. A positive trend towards greater media freedom in Croatia began following the 2000 Parliamentary elections. To date, Croatia has adopted international conventions and agreements as well as domestic legislation in order to establish and uphold media freedom, freedom of information and freedom of expression. National media outlets based in Zagreb are relatively independent, while local media remain exposed to varying levels of pressure from local authorities, many of whom co-own local media outlets.

Events at the end of 2005 and during the first half of 2006 indicate that media freedom remains subject to challenge by some political forces, particularly when journalists raise politically sensitive topics linked to the 1991-1995 conflict. While most journalists consider the Croatian public receptive to open debate on issues related to the recent war, certain political circles are not ready to accept such an approach. Journalists are also warning that they are increasingly subject to pressure from the commercial sector with media owners and advertisers exerting undue influence over their work. However, media institutions and human rights organizations in Croatia react swiftly to condemn any sort of political pressure or harassment against journalists.

Since the end of 2005, there have been a number of allegations of managerial and professional omissions on the part of journalists at the State-owned Croatian Radio and Television Company (HRT). After touching on sensitive topics, some of these journalists have been criticized and sanctioned for alleged professional mistakes. While journalists continue to argue for better protection in these instances, there is a parallel need to increase media professionalism and responsibility, especially when dealing with delicate subjects such as minority rights and the 1991-1995 conflict.

The Mission continues to advocate amendments to the current Law on HRT and the Law on Electronic Media, primarily to enhance the role of their regulatory bodies - the HRT Programme Council and the Council for Electronic Media - and ensure that their members are elected and function without political interference. The Government has plans to start amending these Laws after the EU completes its screening of the media chapter in July 2006.

The Mission continues to recommend the full decriminalization of libel. The Ministry of Justice considered libel to be *de facto* decriminalised following amendments to the Criminal Code in 2004, which allow for a more liberal regime. Responsibility for libel now arises only when the plaintiff can prove that an author intended to harm their honour and reputation. However, the Mission has repeatedly expressed concern that, regardless of these amendments, judges continue to convict reporters for libel without proof of intent. The recent proposal by the Ministry of Justice to remove imprisonment as a sanction for libel in its current revision of the Criminal Code is welcomed.

Recent draft legislation on data secrecy was criticized by human rights advocates as too broad and insufficiently balancing the need for Government secrecy with transparency and accountability reforms. In response, the Government has pledged to revise the legislation.

#### **Joint Objectives**

- Ensure media freedom by adopting comprehensive legislation and mechanisms that shield journalists and media outlets from political interference;
- Strengthen professional media associations at national and local level;
- Improve the level of professionalism among journalists, particularly an understanding of media ethics and responsibility. The Mission will continue to work on this topic.



### **Government Tasks**

- Government and Parliament to amend the Law on HRT and the Law on Electronic Media. Both laws should be adopted by the first quarter of 2007. The Mission will observe the process and provide expertise where necessary;
- HRT to review its management of human and financial resources, and establish internal mechanisms governing ethics and professionalism;
- Government to adopt a proposal by the Ministry of Justice to remove imprisonment as a sanction for libel from the Criminal Code and envisage transferring libel issues into the Civil Code;
- Government and Parliament to revise data secrecy legislation in line with the 2006 Law on Access to Information;
- Government to promote conflict of interest standards notably at the local level where many local authorities own or co-own local electronic and print media. The Mission encourages the privatization of local media owned/co-owned by local authorities.

### **Conclusion**

Although situations in which the media face political or commercial pressure will continue to occur in Croatia, as they do in all mature democracies, the Mission believes that media institutions and human rights organizations have now made progress to the point where they can competently assume the watchdog and advisory role, so far held by the Mission. Their contribution will be particularly important next year, as Parliamentary elections are due to take place at the end of 2007.

In co-operation with Croatian media institutions, the Media Unit will continue to organize training seminars and workshops for journalists in order to improve their overall level of professionalism, while the Mission Spokesperson will predominantly focus on promoting Mission activities outside the Mission. Although monitoring activities are not expected to continue beyond the end of 2006, the Office of the Spokesperson will still require adequate human resources to promote the work of the Mission and manage projects aimed at enhancing media professionalism.

## CONCLUSION

The OSCE Mission to Croatia has already completed its tenth year of operation. It was installed in a country just emerging from a devastating war, which resulted in 13,000 dead, approximately 6,000 missing persons, more than 300,000 Croatian Serb refugees and 200,000 internally displaced ethnic Croats. In addition, the war caused enormous destruction to property and infrastructure with the loss of thousands of homes and devastation to many areas. The war also saw the deterioration of basic democratic institutions such as the judiciary, the police, civil society and the media while election mechanisms and respect for minorities was severely undermined.

Throughout its tenure, the Mission has focused its efforts on helping Croatia overcome its post-conflict and post-transitional difficulties. The Mission has supported the Government in its task of building a more stable, open and inclusive social and political structure providing the basis for a modern, prosperous State, capable of fully integrating into Euro-Atlantic institutions.

By aspiring to meet the EU's Copenhagen Criteria and progressively fulfill its international obligations, Croatia has developed its institutions with the assistance of the Mission and the international community. In this regard, 2005 was a crucial year in this regard, with the EU agreeing to open negotiations with Croatia in October, after the ICTY issued its positive assessment regarding co-operation with The Hague Tribunal.

This favourable combination of circumstances was seized upon by the Mission, who in co-operation with other international organizations (Delegation of the European Commission, UNHCR, ICTY) and the US Embassy initiated a consultative process known as the 'Platform', aimed at resolving issues that remain outstanding in each chapter of the Mission's mandate. This Platform consists of three sets of Plenary meetings that include the Ministers of Foreign Affairs, Development (for refugee related issues) and Justice. Progress made in these Plenary meetings and in various subsidiary Working Groups, seminars and workshops included in the process, is easily quantifiable. As such, fulfillment of the mandate in areas such as police affairs, civil society, media and political affairs can be more easily assessed. Likewise, advancement in the two remaining chapters - return and integration and the rule of law - can be more readily determined.

In 2006, the international community has also managed to give fresh impetus to the so-called Sarajevo Process on regional refugee return. In March this year, nine international community Principals met in Belgrade to agree on and sign a joint letter urging the Prime Ministers of Croatia, Serbia and Montenegro and Bosnia and Herzegovina, to resolve this crucial problem.

Building on this positive basis, the Mission, working with the Government, anticipates that 2007 will see the closure of at least three chapters under its mandate - police reform, civil society development and media reform- and possibly electoral reform.

## **ANNEX**

### **The Mandate**

*"The Mission will provide assistance and expertise to the Croatian authorities at all levels, as well as to interested individuals, groups and organizations, in the field of protection of human rights and of the rights of persons belonging to the national minorities. In this context and in order to promote reconciliation, the rule of law and conformity with the highest internationally recognized standards, the Mission will assist and advise on the full implementation of legislation and monitor the proper functioning and development of democratic institutions, processes and mechanisms.*

*The Mission will offer close co-operation to UNTAES, in particular as regards confidence-building and reconciliation, as well as the development of democratic institutions, processes and mechanisms at the municipal and district/county level.*

*Additionally the Mission is authorized to assist with and to monitor implementation of Croatian legislation and agreements and commitments entered into by the Croatian Government on:*

- *Two-way return of all refugees and displaced persons and on protection of their rights, and*
- *The protection of persons belonging to national minorities*

*To make specific recommendations to the Croatian authorities and refer, as appropriate, urgent issues to the Permanent Council."*

